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STATE FOR EAP/CM, DRL/IL
STATE PASS USTR FOR STRATFORD, WINTER
LABOR FOR ILAB NEWTON, LI ZHAO, SCHOEFFLE
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SUBJECT: Labor Conditions in the Pearl River Delta (Part 1 of 3):
Continuing Poor Trends

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Ref: Guangzhou 21192

11. (SBU) SUMMARY: Many migrant workers in the Pearl River Delta (PRD) - mostly little-educated young people, including some who are underage, from interior and western provinces - continue to face harsh and unsafe working conditions, long hours, overtime wage arrears, child labor, unsuitable living conditions and little training. The PRD has China's highest levels of labor complaints and worker injuries; workers who complain may face government harassment. Some local employment laws discriminate against migrant workers by imposing hiring caps. Even subsidiaries of companies like Foxconn and Disney have been accused of labor violations, some of which have led to violent riots. Many analysts tell us that China's labor laws are sound, but the courts and labor inspectors do not implement them. A government with the best of intentions would certainly find itself hard pressed to sort out these multiple factors - economic growth, corruption, faulty labor laws and environmental standards, which will allow them to make a concerted and effective reform of labor conditions. This is the first of three cables examining the continuing poor labor conditions in the PRD. END SUMMARY.

Background

12. (SBU) The Pearl River Delta (PRD) has been called "the shop floor of the world," because of the large number of factories in the region. Though the precise number is unknown, the Guangdong Provincial Statistics book estimates that the greater PRD (including Huizhou and Jiangmen) has approximately 124,000 factories. The largest numbers are in Jiangmen (24,874), Dongguan (21,868), Huizhou (21,149), Guangzhou (20,764) and Shenzhen (16,569). Meanwhile, the South China Morning Post has estimated the number of Hong Kong-owned factories, the largest foreign-based investor, at approximately 70,000 enterprises. This cable, the first of three, will describe labor violations occurring in the PRD, confirmed by government investigations and media reports. Additionally, Congenoff has toured several factories and spoken with workers about labor

violations they endure. The second cable will examine the provincial and municipal-level policies created to improve the situation. The third will analyze gaps in government programs and the pressure that non-government, organized labor groups face.

Migrant Worker Demographics

¶3. (SBU) The Institute of Contemporary Observation (ICO), a Shenzhen-based NGO led by Liu Kaiming, estimates that Guangdong Province has up to 40 million migrant workers, or 27 percent of an estimated 150 million migrants in China. The Guangzhou Labor Bureau estimated migrant labor populations for Guangzhou at 1.48 million, Dongguan at 3.6 million, and Shenzhen at 3.5 million. On average, migrant workers ages range from 20-28 years old, 77 percent have never gone to high school, 72 percent have no vocational training and more than half are women. Most PRD migrant workers come from the provinces of Hunan, Sichuan, Jiangxi, Shandong and Hebei. The All China Federation of Trade Unions, China's only legal trade union, reported that migrant workers make up 35 percent of Guangdong's work force and are responsible for 25 percent of its GDP.

Long Hours and Overtime Arrears

¶4. (U) Perhaps the most common problem for migrant workers is having to work long hours without sufficient overtime compensation. The National Bureau of Statistics reported that in 2004 migrant workers worked an average of 6.4 days a week and 9.4 hours a day. According to the Xinkuai Bao (XKB), a Guangzhou-based newspaper, about 76 percent of migrant workers never receive overtime payment.

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¶5. (U) Such gross violations have been confirmed by government investigators as well. On November 4, a Guangzhou Labor Bureau inspection team found that 80 percent of the Guangzhou enterprises investigated had problems of "excessive" overtime and insufficient payment for social security, particularly among labor-intensive enterprises. The team found one factory required employees to work 16.5 hours a day. Another factory had no contracts with its workers, failed to provide social insurance, and paid workers only RMB 684 (USD 85.5) a month instead of the mandated minimum salary of RMB 780 (USD 97.5). In October, the Guangzhou Labor Bureau reported that in 2006 it had collected RMB 103 million (USD 12.9 million) in overtime wages for 43,000 workers. According to ICO Director Liu such low wages have led some PRD factories to have a 40 percent annual turnover.

Injuries: Rising Numbers and Legal Battles

¶6. (U) The New England Journal of Health published a study in 2005, reporting that occupational health hazards are the fourth biggest killer among men in China (Note: The top three killers in rank order were cancer, heart attack and stroke. End note.). The PRD in particular has a high number of injuries. According to a two-year survey conducted by Li Qiang, Executive Director of China Labor Watch (a New York-based NGO), at least 40,000 migrant workers are injured every year in Guangdong Province. As a result, Guangdong authorities have announced plans to build the mainland's biggest industrial injury rehabilitation center. Li Qiang wrote that those working 12 hours a day accounted for more than one-third of all worker injuries. Moreover, 90 percent of employers provided almost no protective gear (excluding most large factories). According to Li, most work injuries occur at metalworks and manufacturers of furniture and plastics products where laborers, using moulding machines and saws, become exhausted after working for many hours.

¶7. (U) In early 2006 the Public Welfare Times (a Beijing-based newspaper) published a report investigating PRD injuries (Note: On February 8, the Public Welfare Times editor, Chen Jieren, was sacked. End note). According to PRC law, the legal process for injury compensation cases lasts a minimum of 200 days - but these

can taken even longer if any of the multiple agencies involved requires more time. Many workers cannot afford the various fees incurred in the process (which is sometimes complicated by the collaboration between factory bosses and local officials) and prefer to settle the dispute in private for less compensation. The report described one example of this: after losing three fingers in a furniture factory accident, a migrant worker's boss said he could either settle for RMB 3,000 for each finger, or sue the company with no guarantee of injury compensation. Eventually the worker received RMB 5,000 for each lost finger and was coerced by the factory to never mention the incident.

Child Labor: Less Prevalent

18. (U) There appear to be fewer occurrences of child labor, though examples do exist. Recently the Guangzhou Labor Bureau said that in 2006 alone it had dismissed 45 child laborers from factories in the city. Additionally, some companies are known to exploit young "interns" for cheap labor. On April 20 the South China Morning Post reported that a subsidiary of the South Korean company Samsung employed about 1,000 underage workers in Dongguan as "interns" to staff about one-quarter of its production lines. Reportedly students were hired from vocational schools in interior provinces such as Hunan, Sichuan and Guangxi. The factory's human resources chief acknowledged the company's policy, but said the practice was legal because the interns were not involved in such dangerous fields as mining or chemicals.

Legal Discrimination: "Migrants Need Not Apply"

19. (U) The steady flow of migrant workers into the PRD has made local residents resentful, leading to the creation of local laws

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that are discriminatory. The South China Morning Post has reported that some PRD establishments have placed want-ad signs stipulating that people from Hubei or Hunan "need not apply." In the book "Employment Discrimination: International Standards and National Practice," Shenzhen University professor Li Weiwei describes discriminatory Guangdong provincial laws. Examples include requiring migrant workers to carry temporary residence cards (in Shantou and Shenzhen); requiring migrant workers to be hired through local labor administration bureaus instead of directly (Zhuhai, Shantou, Guangzhou); and quotas on the number of migrant workers (Guangzhou, Shenzhen, Shantou). Li argues that these restrictions give local residents legal advantages over outside migrant workers. Furthermore, such laws violate the State Council's 2004 "Notice of Improving the Working Condition of Rural Residents in Urban Areas," which was designed to eliminate the differences between rural and urban labor markets.

High-Profile Cases: Foxconn and Disney/McDonald's

10. (U) Most labor experts agree that the worst labor law violators are Taiwan-, Hong Kong- and mainland-invested companies, particularly of lesser-known brands. Two recent examples from this summer, however, demonstrate that subsidiaries of famous brands may also commit labor violations. First, in June, two mainland journalists published an expose decrying the labor conditions of a Foxconn subsidiary in Shenzhen, alleging that employees at the factory worked 12 hours a day without being allowed to rest or talk. (Foxconn is a Taiwan-owned manufacturer of various electronic equipment, including Apple's "Ipod".) Foxconn immediately sued the journalists for RMB 30 million (USD 3.8 million) and the Shenzhen courts froze the journalists' assets, though the suit was eventually dropped. Chang Kai, a Renmin University labor expert, called the reaction by Foxconn and the Shenzhen courts "excessive and unnatural," while the Southern Metropolis Paper (Nanfang Dushibao) wrote that the case shows "the power of the rich and the difficult situation of mainland journalists, which is only the beginning of things to come."

11. (U) In July, a riot occurred at an 11,000-person Dongguan

factory owned by a Hong Kong-based toy producer for Disney and McDonald's. Approximately 1,000 workers clashed with security guards and police officers, resulting in many injuries. China Labor Watch reported that the workers had numerous complaints of poor working conditions including: 11 hour work days, six days a week; excessive overtime; salary deductions for refusing to work overtime; unpaid holidays; limited vacation and sick leave; overtime paid at the standard rate (not paid at a premium as required by law); and approximately one-fourth of workers' income spent on food and dormitory fees.

Complaints and Protests

¶12. (U) A report by the All China Federation of Trade Unions released in May said that Guangdong had 61,200 labor lawsuits submitted in 2005, the highest number for any province in China. The lawsuits mostly concerned wages and social welfare insurance. The number could be potentially higher; however, according to labor rights activists, workers who try to complain to the local labor bureau often face harassment from their factory and police. For example, a July 28 Internet open letter specifically mentions problems with the Pingdi labor station in Shenzhen. According to the author of the letter, the workers were first cursed at and later put under house arrest for trying to report child labor violations and forced labor of pregnant women.

Anecdotal Evidence of Labor Violations

¶13. (SBU) Various groups of workers have told Congenoff of poor labor standards in their factories. Workers at factories in Dongguan and Shenzhen complained of long hours and of often not receiving the minimum wage. The workers were even more upset by their living conditions. The workers live in a building with 20

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dormitory rooms per floor, with one toilet for 100 or more people. Others mentioned bad food, which the management refused to improve despite complaints.

¶14. (SBU) Additionally, Congenoff met with underaged workers who were tricked into working as interns for a Taiwanese electronics factory in Dongguan. The workers, from Hunan province, all approximately age 16, were attending a vocational school when the factory approached their school promising internships to work five days a week at a "decent" wage and to sleep with four to eight people in a dormitory. The boys' parents agreed and paid the school RMB 1,500 to allow the boys to leave school. In reality the boys were required to work 11 hours a day, six days a week at below minimum wages (RMB 490 a month, USD 61.25) and sleep with 400 people in a warehouse. The boys said they were given two hours of training before starting and the factory has 300 guards who were "very violent" at times.

¶15. (SBU) In October, Congenoff visited the 9,000-person Kingsun factories in Dongguan, a mainland-invested manufacturer of Christmas decorations and cooking grills. One Kingsun manager proudly showed Congenoff the factory's welding process. The shop floor was filled with strong smells of metal and oil; hot sparks and dust spewed out of the welding machines. Despite the air pollutants, there were no working fans in any of the buildings. Additionally, workers did not wear masks, eyeglasses or earplugs, though most did have gloves. Workers lived in dorm rooms of eight people per room. Shop-floor workers were paid RMB 700 a month (USD 87.5), RMB 10 more than Dongguan's minimum, which did not include fees for room and board. Workers are provided social insurance, but no health insurance.

Comment: The Source of Violations?

¶16. (SBU) Rapid economic growth, lack of government attention and corruption are the main reasons for poor labor standards. The problem of labor violations seems similar to intellectual property rights violations or anti-corruption campaigns in that the government's effort to enforce the law lags considerably behind the

growth of the problem. Part of this lag is due to the juggernaut-like rapid growth of the Guangdong economy (almost 12 percent growth for the past 20 years), which leaves government-led enforcement efforts, even were there the best of intentions (which often there is not), in the dust. Labor officials in any country would find it similarly difficult to monitor companies if thousands of new enterprises sprung up in their district each year.

¶17. (SBU) Moreover, for the past 20 years economic growth itself was the sole focus of Guangdong leaders. Only recently has the central government promoted its "Harmonious Society" ideology, which considers factors such as environmental safety, health and welfare and social stability. In the past few years, as land prices in the PRD have increased and labor and environmental standards have become more stringent (reftel) some investors have begun to shift their factories outside of the PRD to cities like Qingyuan and Heyuan. Rampant corruption, fueled by foreign and domestic investors, occurs at many levels of the Guangdong government, leading officials to overlook labor violations. One British diplomat told Congenoff that Hong Kong factory owners are known to even ask Hong Kong government officials to lobby Guangdong to not enforce labor and environmental standards in the PRD.

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